

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

TEMPORARY PERMIT 21143

Application T031359 of **Monterey Peninsula Water Management District**
P.O. Box 85
Monterey, CA 93942-0085

filed on **September 7, 2002**, has been approved by the State Water Resources Control Board (SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source	Tributary to
<u>Carmel River (Subterranean Stream)</u>	<u>Pacific Ocean</u>

within the County of **Monterey**.

2. Location of points of diversion and redirection

By California Coordinate System of 1927 in Zone 4	40-acre subdivision of public land survey or projection thereof	Section (Projected)	Township	Range	Base and Meridian
San Clemente Dam; North 412,600 feet and East 1,203,650 feet	NW¼ of SW¼	24	17S	2E	MD
Canada Well; North 451,600 feet and East 1,153,800 feet	NE¼ of SW¼	17	16S	1E	MD
San Carlos Well; North 451,250 feet and East 1,156,600 feet	NE¼ of SE¼	17	16S	1E	MD
Cypress Well; North 447,200 feet and East 1,163,250 feet	SW¼ of NW¼	22	16S	1E	MD

Pearce Well; North 446,950 feet and East 1,164,750 feet	SE¼ of NW¼	22	16S	1E	MD
Schulte Well; North 447,000 feet and East 1,167,850 feet	SW¼ of NW¼	23	16S	1E	MD
Manor #2 Well; North 446,050 feet and East 1,169,950 feet	NE¼ of SW¼	23	16S	1E	MD
Begonia #2 Well; North 445,100 feet and East 1,173,350 feet	NW¼ of SW¼	24	16S	1E	MD
Berwick #7 Well; North 444,050 feet and East 1,173,900 feet	SW¼ of SW¼	24	16S	1E	MD
Berwick #8 Well; North 444,100 feet and East 1,174,700 feet	SE¼ of SW¼	24	16S	1E	MD
Scarlett #8 Well; North 444,100 feet and East 1,179,200 feet	SW¼ of SW¼	19	16S	2E	MD
Los Laureles #5 Well; North 439,900 feet and East 1,187,200 feet	NW¼ of SE¼	29	16S	2E	MD
Los Laureles #6 Well; North 439,100 feet and East 1,188,050 feet	SE¼ of SE¼	29	16S	2E	MD
West Garzas #4 Well; North 434,850 feet and East 1,190,800 feet	NE¼ of SW¼	33	16S	2E	MD
Garzas Creek #3 Well; North 433,200 feet and East 1,191,650 feet	SW¼ of SE¼	33	16S	2E	MD
Panetta #2 Well; North 431,700 feet and East 1,193,350 feet	NW¼ of NW¼	3	17S	2E	MD
Panetta #1 Well; North 431,550 feet and East 1,193,250 feet	NW¼ of NW¼	3	17S	2E	MD
Robles #3 Well; North 426,700 feet and East 1,198,100 feet	NE¼ of NE¼	10	17S	2E	MD
Russell #4 Well; North 421,400 feet and East 1,202,650 feet	SW¼ of SE¼	14	17S	2E	MD
Russell #2 Well; North 421,000 feet and East 1,202,650 feet	SE¼ of SE¼	14	17S	2E	MD

(Point of Rediversion) Seaside Basin Pilot Injection Well; North 480,600 feet and East 1,173,300 feet	NE¼ of NE¼	23	15S	1E	MD
(Point of Rediversion) Seaside Basin Injection Well No. 1; North 480,550 feet and East 1,173,700 feet	NE¼ of NE¼	23	15S	1E	MD
(Point of Rediversion) Ord Grove #1 Well; North 479,850 feet and East 1,172,150 feet	NW¼ of NE¼	23	15S	1E	MD

3. Purpose of use	4. Place of use	Section (Projected)	Township	Range	Base and Meridian	Acres
Municipal	110,000 acres within the boundaries of the Monterey Peninsula Water Management District					

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 750 acre-feet per annum (afa) to be collected to underground storage in the Seaside Basin at a maximum rate of 4.5 cubic feet per second (cfs) from January 10, 2003 through May 31, 2003.
6. This permit expires 180 days from the date of its issuance or May 31, 2003, whichever comes first.
7. For the protection of fish and wildlife, permittee shall divert only when the following minimum instream flows are being met:

During the period from January 1 through April 15, 2003, of wet, normal, and below normal years*:

When an attraction event* is projected, maintain 200 cfs** to the Lagoon for the duration of the attraction event.

Following the attraction event, provide:

90 cfs** from the San Clemente Dam to River mile 5.5 gauging station, and

60 cfs** between River mile 5.5 and the Carmel River Lagoon, as measured at the Carmel River, Highway 1 gauging station.

During the period January 1 to April 15, 2003, of dry and critically dry years*:

When an attraction event* is projected, maintain 150 cfs** to the Lagoon for the duration of the attraction event.

Following the attraction event, provide:

90 cfs** from the San Clemente Dam to River mile 5.5 gauging station, and

60 cfs** between River mile 5.5 and the Carmel River Lagoon, as measured at the Carmel River, Highway 1 gauging station.

During the period from April 16 to May 31, 2003 of all year types*, provide

80 cfs** from San Clemente Dam to the Lagoon.

* The definitions of year type and attraction events are those contained in D1632, Permit Tables A and C.

** Minimum instream flow requirements found in Table 9, Instream Flow Needs for Steelhead in the Carmel River, June 3, 2002.

(0000060)

8. To further protect adult migrating steelhead, permittee has agreed to the inclusion of the following paragraph,

When water is being diverted and injected into the Seaside Groundwater Basin, MPWMD shall be required to monitor flow at the Highway 1 Bridge, and water currents, depths, and channel configuration in the Lower Carmel River below Schulte Road Bridge. The purpose of this monitoring is to ensure that the migration of adult steelhead is not blocked

or impaired as a result of the permitted diversions. If any evidence of impairment or blockage is found, MPWMD shall cease diverting under the temporary permit until flow increases, thereby alleviating the blockage or impairment.

9. Permittee shall install and maintain measuring devices, satisfactory to the SWRCB, which are capable of: (1) measuring the instantaneous rate of diversion and the cumulative quantity of water diverted to the Seaside Basin injection well(s) and (2) the cumulative quantity of water extracted from the Seaside Basin. Permittee shall also ensure that the Carmel River Highway 1 gaging station is operational at all times during the diversion season.

(0110900)
(0510900)
10. Permittee shall report to the SWRCB by July 1, 2003, the maximum rate of diversion and total quantity of water diverted under this temporary permit.

(0510900)
11. Permittee shall cease all diversions under this temporary permit at any time diversions are being made pursuant to Permit 20808.
12. The source of water for the test of the Seaside Basin injection/ground water recharge project is the Carmel River. All diversions and rediversions will be accomplished using California-American Water Company (Cal-Am) facilities and the water will be supplied to the Cal-Am service area. Therefore, Carmel River water diverted under this temporary permit shall be counted when evaluating compliance with the withdrawal quantities from the Carmel River by Cal-Am as set forth in Condition 1 of SWRCB Order 95-10. The amount of water diverted under this temporary permit credited towards Condition 1 of SWRCB Order 95-10 shall be the lesser of:
 - a. The amount of water produced from the Seaside Basin in excess of 4,025 acre-feet of water (Cal-Am's share of the current estimated safe-yield of the Seaside Basin), or
 - b. The total amount of the water diverted under this temporary permit during water year 2002-2003.
13. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee

shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

14. The SWRCB may supervise diversion and use of water under this temporary permit for the protection of lawful users of water and instream beneficial uses and for compliance with permit conditions. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by the SWRCB, reasonable access to project works to determine compliance with the terms of this temporary permit.

15. This temporary permit is issued and permittee takes it subject to California Water Code, Division 2, Chapter 6.5, section 1425, et seq. Any temporary permit issued under this chapter shall not result in creation of a vested right, even of a temporary nature, but shall be subject at all times to modification or revocation at the discretion of the SWRCB.

(0510800)

16. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this temporary permit including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this temporary permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

(0000012)

17. Issuance of this temporary permit shall not be construed as indicating SWRCB approval of water right permits requested under other pending applications.

(0510999)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Resolution 2002-0106 delegates authority of the State Water Resources Control Board. Sections 1.1 and 1.2 delegates to the Board Members individually, the authority to authorize issuance or renewal of a conditional temporary water right permit pursuant to Chapter 6.5 (commencing with section 1425) of part 2 of division 2 of the Water Code.

The notice of application for this temporary permit was issued on October 10, 2001. Timely letters were received from the National Marine Fishery Service (NMFS), Carmel River Steelhead Association, Department of Fish and Game (DFG), Save Our Carmel River, and Mr. Roy Kaufman. The letters received from all parties except Mr. Kaufman, supported the temporary permit provided the terms and conditions protecting the steelhead fishery were incorporated into the temporary permit. The letter received from Mr. Kaufman raised several issues including the urgency of the need, the adequacy of the CEQA review and the potential injury to other legal users of water and instream beneficial uses. Urgent need was determined to exist due to the lack of sufficient water rights and supplies to meet present domestic and municipal demand. The minimum instream bypass flows required by NMFS and DFG insure that fish, wildlife and instream uses are not impacted and also insure that other legal users of water will not be injured.

As a Board member of the State Water Resources Control Board, I conclude, based on the available information that:

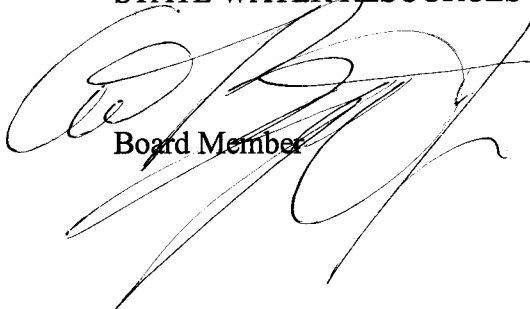
1. There is an urgent need for the proposed diversion and use of water;
2. The proposed diversion and use of water may be made without injury to any lawful user of water;

3. The proposed diversion and use of water may be made without unreasonable effect upon fish, wildlife, or other instream beneficial uses; and
4. The proposed diversion and use is in the public interest.

Therefore, this proposed temporary permit is approved; subject to my jurisdiction to supervise the diversion and use of water under this temporary permit and to coordinate or modify terms and conditions, for the protection of vested rights, fish, wildlife, instream beneficial uses, and the public interest as future conditions may warrant.

Dated: JAN 22 2003

STATE WATER RESOURCES CONTROL BOARD



Board Member